




**To the Honorable Council
City of Norfolk, Virginia**

January 13, 2015

From: Jared M. Chalk, Senior Business
Development Manager

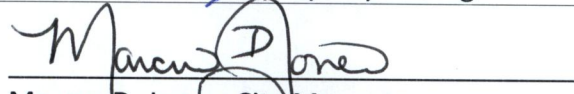
Subject: St. Paul's Apartment

Reviewed:


Peter Chapman, Deputy City Manager

Ward/Superward: 4/7

Approved:


Marcus D. Jones, City Manager

Item Number:

PH-2

I. Recommendation: Adopt Ordinance

II. Applicant: St. Paul's Apartments, L.P.

III. Description

An ordinance approving a land disposition and development contract between the City of Norfolk, as seller, and St. Paul's Apartments, L.P., as purchaser, for real property consisting of 4.54 acres, more or less, and located at St. Paul's Boulevard and Wood Street in the City of Norfolk.

IV. Analysis

- Apartment style development – 120 units minimum and provides quality, affordable housing in Downtown.
- The Property shall not include real estate that will be dedicated as a public street as a result of the relocation of Posey Lane.

V. Financial Impact

The sale of this property would place it back on the tax rolls and provide quality, affordable housing in downtown. The sales price is \$1.25 million.

VI. Environmental

N/A

VII. Community Outreach/Notification

Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

VIII. Board/Commission Action

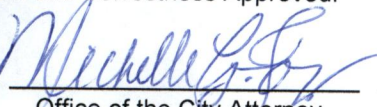
N/A

IX. Coordination/Outreach

This letter has been coordinated with the Department of Development, City Attorney's Office and the City Manager's office.

12/22/14mr

Form and Correctness Approved:

By 
Office of the City Attorney

Contents Approved:

By 
DEPT. Development

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE APPROVING A LAND DISPOSITION AND DEVELOPMENT CONTRACT BETWEEN THE CITY OF NORFOLK, AS SELLER, AND ST. PAUL'S APARTMENTS, L.P., AS PURCHASER, FOR REAL PROPERTY CONSISTING OF 4.54 ACRES, MORE OR LESS, AND LOCATED AT ST. PAUL'S BOULEVARD AND WOOD STREET IN THE CITY OF NORFOLK.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the Land Disposition and Development Contract (the "Contract") between the City of Norfolk, as seller, and St. Paul's Apartments, L.P. ("St. Paul's"), as purchaser, a copy of which is attached hereto, wherein the City of Norfolk agrees to transfer to St. Paul's all those certain parcels of real property consisting of 4.54 acres, more or less, and located on St. Paul's Boulevard and Wood Street, as shown and described on Exhibit A of the Contract, and St. Paul's agrees to construct and equip a multi-family affordable housing apartment complex with related amenities and parking, upon the terms and conditions set forth in the Contract, is hereby approved.

Section 2:- That the City Manager is authorized to correct, amend, or revise the Contract as he may deem necessary in order to carry out the intent of the Council and to execute the Contract, as corrected, amended, or revised in accordance herewith, for and on behalf of the City, subject however to approval as to form and correctness by the Office of the City Attorney.

Section 3:- That this ordinance shall be in effect from and after thirty (30) days from the date of its adoption.

LAND DISPOSITION AND DEVELOPMENT CONTRACT
BETWEEN
THE CITY OF NORFOLK, VIRGINIA
AND
ST. PAUL'S APARTMENTS, L.P.

TABLE OF CONTENTS

Article I DEFINITIONS OF TERMS.....	2
Article II AGREEMENT TO CONVEY AND DEVELOP PROPERTY	4
Article III CLOSING AND PURCHASE PRICE	17
Article IV ADDITIONAL COVENANTS	24
Article V TERM	25
Article VI MODIFICATIONS FOR LENDER	25
Article VII ADDITIONAL OBLIGATIONS	26
Article VIII EVENTS OF DEFAULT AND REMEDIES	30
Article IX ASSIGNMENT LIMITATIONS.....	33
Article X MISCELLANEOUS	33

LAND DISPOSITION AND DEVELOPMENT CONTRACT

THIS LAND DISPOSITION AND DEVELOPMENT CONTRACT ("Contract"), is executed this ___ day of February, 2015, by and between the CITY OF NORFOLK, VIRGINIA ("City"), a municipal corporation of the Commonwealth of Virginia, and ST. PAUL'S APARTMENTS, L.P., a Virginia limited partnership ("Developer"). The parties to this Contract may be collectively referred to by the term "Parties" or individually as "Party".

RECITALS:

A. Under the leadership of the City Council of the City of Norfolk, the City desires to maintain, improve and expand affordable housing in the City.

B. The City further desires that private developers construct an affordable housing project of high quality design and materials on the real property owned by the City and consisting of approximately 4.54 acres, more or less, located at St. Paul's Boulevard and Wood Street in the City of Norfolk and further shown on Exhibit A ("Property"). The Property shall include the real estate that reverts to the City as a result of the closing of Posey Lane and Fox Lane as hereinafter described. The Property shall not include real estate that will be dedicated as a public street as a result of the relocation of Posey Lane.

C. Negotiations by the Parties have produced this Contract for the Developer to construct and equip a multi-family affordable housing apartment complex with related amenities and parking. The Project, as defined below, is described in detail in Developer's Proposal, which is hereto incorporated by reference and attached as Exhibit B.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants herein contained, the Deposit to be paid as described below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
DEFINITIONS OF TERMS

When used in this Contract with an initial capital letter or letters, each of the following terms shall have the meaning given it below.

- (a) “Affiliate” of Developer means any legal entity, which controls, is controlled by, or is under common control with another entity with the Developer.
- (b) “City” means the City of Norfolk.
- (c) “City Delay” means any delay in completion of the Project resulting from any failure by City to perform timely any of its obligations under this Contract.
- (d) “Closing Date” means the date established pursuant to Section 3.1 of this Contract.
- (e) “Completed” or “Completion” means, with respect to the Project, the date when the construction of the last multi-family building(s) of the Project is sufficiently completed (“Substantial Completion”) so as to permit use of that building(s) for the purposes for which it was intended and the issuance of a certificate of occupancy, which date may precede the full completion of all punch-list items, landscaping and similar design and development functions.
- (f) “Contract” means this Land Disposition and Development Contract between the City and the Developer.
- (g) “Contractors” means the general contractors and subcontractors for construction of the Project.
- (h) “Deposit” means the sum of \$25,000.00 that will be paid by Developer to City within three (3) business days after execution of this Contract and the additional \$25,000.00 that Developer will pay to City within five (5) business days after satisfaction of the condition in Section 3.3(f).

(i) “Developer’s Proposal” means Developer’s letter of intent dated October 31, 2014, such proposal having been accepted by the City, along with the concept site plan attached hereto as Exhibit B and the Architectural Review Board Application for St. Paul’s Apartments dated December 16, 2014. City acknowledges the Project’s design is dependent on abandonment of the Hampton Roads Sanitation District Commission (HRSD) force main sewer line that crosses the Property. If that abandonment does not occur, Exhibit B-1 attached is the alternate concept site plan.

(j) “Development Schedule” means a schedule for development of the Project prepared by Developer and submitted to the City pursuant to Section 2.9.

(k) “Due Diligence Period” means the 90 day period after the date of execution of this Contract that is necessary for Developer to obtain the necessary information, assessments, studies, and the like before acquiring the Property; provided, however, if Developer discovers information within that ninety (90) day period that requires further investigation, Developer shall give City written notice thereof and the Due Diligence Period shall be extended to one hundred (120) days after the date of execution of this Contract.

(l) “Financing Commitment” means a commitment or commitments reasonably satisfactory to the City, which has or have been accepted by Developer from one or more equity investors or institutional lenders who are approved by the City, to finance the construction of the Project. The City’s approval will not be unreasonably withheld. In order to constitute a Financing Commitment under this definition, a commitment must be duly authorized by the issuer and must be in substantially the same form and level of detail typically utilized by a prospective lender or investor in similar transactions, including requirements for closing and conditions thereof; and, in the case of loan commitments, setting forth the proposed principal

amount, interest rate, amortization terms, collateral or guaranty requirements, maturity date, improvements to be constructed, and the expiration date of the commitment.

(m) “Outside Closing Date” means the latest date on which Closing may occur as set forth in Section 3.1 of this Contract.

(n) “Project” means multi-family affordable housing apartment complex with approximately one hundred twenty (120) units with related amenities and surface parking with 1.5 spaces per unit to be constructed by Developer on the Property as more fully described in the Developer’s Proposal.

(o) “Unavoidable Delay” means a delay due to war, riots, civil commotion, strikes, labor disputes, embargoes, natural disaster, Acts of God or any other cause or contingency similarly beyond the control of the Parties or the Developer’s contractors.

ARTICLE II

AGREEMENT TO CONVEY AND DEVELOP PROPERTY

Section 2.1. Conveyance of Property “As Is”, Development, Design and Construction of Project.

City will convey fee simple title to the Property to Developer by special warranty deed which title shall be good and marketable and free of any liens, encumbrances, or other title defects which would prohibit or impair the use of the Property for the purposes contemplated by this Contract, except for any Permitted Encumbrances, as hereinafter defined. The City shall have reasonable time to cure any title defects which are not acceptable to Developer and/or its lender. The City, however, shall have the option of declining to cure any defect, and if the City does decline to cure any defect or does not cure any defect that it has agreed to cure, the Developer shall have the right either to waive its title objections and to take title to the Property subject to such title defects, which shall be considered “Permitted Encumbrances” as defined in

Section 3.6(a) of this Contract, or to terminate this Contract and to receive the return of the Deposit as its exclusive remedy for termination of this Contract and any related claim. Developer will accept from City the Property, subject to the terms and conditions hereinafter set forth. Except as expressly set forth in this Contract, Developer is accepting the use and conveyance of the Property "as is." Each Party shall be responsible for its costs of closing. Developer shall be responsible for any demolition.

The City shall not be obligated to any extent under this Contract until any required notices, advertisements and/or hearings have been held and an ordinance has been adopted by City Council approving the Project and authorizing the City Manager to enter into this Contract.

Section 2.2. Restrictive Covenants.

The restrictive covenants contained in this Section 2.2 ("Restrictive Covenants") are intended and designed to operate as covenants binding upon Developer and its Affiliates, successors and assigns. The Restrictive Covenants are intended for the benefit of the Property, provided that only (i) the City and any successor or assignee of the City that is a local governmental agency and (ii) the United States with respect to Subsection 2.2(d) shall have the right, power and authority to enforce the Restrictive Covenants; and further provided that the City shall have the right, power and authority (without the necessity of obtaining the consent of Developer) to waive compliance with any of the Restrictive Covenants whenever it makes a determination, in its reasonable discretion, that such non-compliance or default does not materially interfere with the objectives of the City with regard to development. In addition to, but not in lieu, of any other right or remedy for breach of any one or more of the Restrictive Covenants, the City shall be entitled to seek injunctive relief, without necessarily showing monetary or special damages and without posting bond or security for a bond for the award of a

permanent injunction. The violation of any of the Restrictive Covenants, and the exercise of any right or remedy for breach of any of such covenants, shall not destroy, impair or otherwise affect the lien of any recorded instrument given by Developer to secure repayment of a loan or loans made for the purpose of providing funds for improving the Property or cause a reversion or forfeiture of title. The Parties recognize that the development and operation of the Property in a manner that is in the best interests of both Parties may from time to time require the confirmation, clarification, amplification or elaboration of the Restrictive Covenants in order to deal adequately with circumstances that may not now be foreseen or anticipated by the Parties. The Parties, therefore, reserve unto themselves the right to enter into such interpretive, implementing, amendatory or confirmatory agreements from time to time as they may deem necessary or desirable for any such purpose without obtaining the consent or approval of any person not a party to this Contract, except as may be expressly otherwise provided in this Contract.

The City has determined, in the exercise of its legislatively delegated discretion, that in order to carry out the objective of maintaining, retaining, improving and expanding existing development and to set a prevailing high standard in aesthetics, public policy is best served by the imposition of conditions and restrictions upon the improvement, use, and maintenance of vacant land which is intended for development by private enterprise. To that end, it is hereby specified that, as part of the consideration for this transaction, the use of the Property to be conveyed, is expressly subject to the following covenants, restrictions, limitations and conditions that are to be imposed as covenants running with and binding upon the aforesaid Property and Project:

(a) The Property and Project shall not be used for industrial purposes, with the exception of parking related to a permitted use, but shall initially and for at least a period of forty

(40) years shall be used for multi-family residential and ancillary uses and, at Developer's option, mixed commercial, including commercial and residential, in accordance with the final plans and specifications for the Project.

(b) There shall not be effected or executed any agreement, lease, covenant, conveyance or other instrument whereby the sale, lease or occupancy of the Property or Project is restricted upon the basis of race, creed, color, religion, sex, national origin, disability or familial status.

(c) Developer will comply with all applicable laws\ in effect from time to time prohibiting discrimination or segregation by reason of race, creed, color, religion, sex, national origin, disability or familial status in the leasing or occupancy of the Property or any improvements thereon, including, without limitation, the Project.

(d) Developer agrees on its behalf, its successors and assigns, not to discriminate upon the basis of race, creed, color, religion, sex, national origin, disability or familial status in the sale, lease, rental, use or occupancy of the Property or any improvements thereon, including, without limitation, Project. This covenant being given for the benefit of the public and the United States is expressly recognized as a beneficiary hereof and is entitled to enforce this covenant for its own benefit or for the benefit of the public.

(e) Coal shall not be used for heating or developing fuel or for any other operation on the Property.

(f) Any land area within the Property not occupied by structures, hard surfacing, or vehicular driveways shall be kept planted with grass, trees, and plants or shrubbery and maintained in a healthy condition and neat appearance. In the event of a default by Developer, or its successors and assigns, in the planting or maintenance obligations set forth in this Section 2.2(f), which default continues for a period of thirty (30) business days after receipt

by Developer of written notice thereof, the required planting and maintenance work may be completed by the City at the sole cost and expense of Developer, its successors and assigns, and Developer shall reimburse City for the costs thereof within thirty (30) days after receipt of an invoice therefor.

(g) The Project and its appurtenant premises will be maintained by Developer in a sound condition and with a neat and well maintained appearance so as to meet the criteria, as they change from time to time, for a first class multi-family apartment complex, ordinary wear and tear excepted, and in keeping with the downtown district that the Project abuts. Necessary repairs, maintenance and upkeep of the Project will be performed so as to preserve the attractive appearance, physical integrity, and the sanitary and safe condition of the buildings and other improvements. In the event of a default by Developer in the repair, maintenance or upkeep obligations set forth in this Section 2.2(g), which default continues for a period of thirty (30) days after receipt of written notice thereof by Developer, the required repairs, maintenance and upkeep may be completed by the City at the sole cost and expense of Developer, and Developer shall reimburse City for the costs thereof within thirty (30) days after receipt of an invoice therefor.

(h) All exterior walls shall be constructed of permanent materials impervious to deterioration in appearance, such as stone, exposed aggregates, brick, block, pre-cast panels, glass, or EFIS (exterior finishing insulation systems). All roof structures and appurtenances in excess of six (6) inches in diameter and twelve (12) inches in height shall be shielded or screened from observation from the same elevation. Such shielding or screening shall be with materials compatible and in harmony with the roof and/or side walls.

(i) Any service area, facility or equipment located on the Project and that is visible from a public right-of-way shall be enclosed or adequately screened using landscaping or materials that are consistent with the design of the Project.

(j) No landscaping, improvements or structures, whether temporary or permanent in nature, shall be constructed, commenced or erected on the Property unless and until the plans, working drawings, specifications and materials therefor have been approved in writing by the City.

(k) Gas, electric and other utility services shall be underground to the Project from the main distribution. No utility line or connection to any utility line at or above ground level shall be permitted.

(l) The covenants under Subsections (a), (e), (f), (g), (h), (i), (j) and (k) shall expire forty (40) years after the date of this Contract and shall be binding upon the City and Developer, and if conveyed by Developer then upon its successors and assigns.

It is intended and agreed hereby that the Restrictive Covenants under Section 2.2 shall be covenants running with the land and that they shall in any event, and without regard to technical classification or designation, legal or otherwise be binding upon the City and Developer respectively as the case may be.

Section 2.3. Title Insurance; Due Diligence.

Prior to the expiration of the Due Diligence Period, Developer, at its expense, shall obtain a commitment for title insurance (the "Title Commitment") from a nationally recognized title company and furnish a copy of the Title Commitment to City.

Developer shall have the right of entry set forth in Section 4.1 (Right of Entry). In the event Developer determines, in its sole discretion, the Property is unsuitable for the Project or title to the Property is not acceptable, Developer may terminate this Contract by written notice

thereof to the City prior to expiration of the Due Diligence Period and Developer's sole remedy shall be return of its Deposit and neither party shall have any further obligations under this Contract except as otherwise expressly provided in this Contract. In the event Developer does not exercise its right to terminate this Contract by giving the City written notice thereof prior to the expiration of the Due Diligence Period, its Deposit shall then be non-refundable after the conditions in Section 3.3(e) and Section 3.3(f) have been satisfied, unless this Contract is terminated by Developer because any of the conditions in Subsections (a), (b), (c) or (d) of Section 3.3 have not been satisfied.

Section 2.4. Design of Project.

The Project will consist of the buildings, facilities and elements described in Developer's Proposal, as revised in accordance with the terms of this Contract. The design of the Project and the construction materials used within will qualify the Project for classification as a first class multi-family affordable housing apartment complex. In addition to the design approval provided for in this Contract, if applicable, the Project shall be submitted and approved for a Downtown Development Certificate ("Downtown Development Certificate") as specified in Chapter 11-11 of the City of Norfolk's zoning ordinance, if applicable. Developer shall seek to obtain the Downtown Development Certificate, if applicable.

Developer shall submit the preliminary plans to the City (a) when design is approximately 10% complete, (b) when the design is 90% complete and (c) when the design is sufficiently complete such that Developer's contractor can proceed with construction. The City shall review the design of the Project in accordance with the terms of Section 2.7 of this Contract. Developer may not proceed with construction until the plans are approved in writing by City and in order to enforce this Section 2.4, the City shall be entitled to seek injunctive relief without necessarily showing monetary or special damages and without posting bond or security

for a bond for the award of a permanent injunction. The City's review will include, but will not be limited to, the criteria for obtaining a Downtown Development Certificate, if applicable, and that the design at the 90% and 100% stages is in substantial conformance with the previous plans provided and as modified. Notwithstanding the foregoing, Developer shall have the right to make changes in the design and construction to the extent required to meet applicable codes, rules, regulations, statutes and ordinances. Developer must also obtain all other approvals required by the Norfolk City Code and other applicable laws and regulations. If Developer, despite using commercially reasonable effort, is unable to obtain approval by the City of the plans for the Project and all other governmental approvals and permits required to commence construction of the Project prior to Closing, Developer may terminate this Contract by giving the City written notice thereof prior to the Closing, and its sole remedy shall be the return of its Deposit and termination of this Contract and neither Party shall have any further obligation under this Contract, except as otherwise expressly provided in this Contract.

Section 2.5. Sidewalks. The Parties acknowledge that existing sidewalks adjacent to the Property will not require upgrade, except for that portion of E. Bute Street, which lacks sidewalks the installation of which will be the responsibility of Developer at Developer's expense.

Section 2.6. Relocation and Construction of Utilities.

Developer shall be responsible for confirming the existing water and sanitary sewer systems adjacent to or downstream of the Property are adequate to support the Project. Any water or sanitary sewer system upgrades necessary to support the Project shall be designed and constructed by the Developer at the Developer's expense. The Developer shall be responsible for the relocation of any utilities which is necessitated by the construction of the Project (except HRSD force main relocation which will be done by others) and for connecting to

water, storm and sanitary sewer lines currently located in public rights of way, and all costs thereof shall be paid and borne by Developer. Connection fees and tap fees for such city utilities serving the Project will be Developer's responsibility. The cost of franchise utility services for the Project shall be the responsibility of Developer. In addition, Developer shall cause all electric, telephone and other utility lines for the Project to be placed underground within public rights of way or utility easements located within the Property lines.

Section 2.7. City's Review Procedures. The City shall review the design submissions within thirty (30) days of its receipt of the same, and shall give notice to Developer within such thirty (30) day period of its determination that either (a) the same are approved as complete in accordance with the terms of this Contract, (b) that such submissions are incomplete or otherwise fail to comply with the terms of this Contract, or (c) that such submissions must be modified. If the City determines that the Project design documents submitted to it hereunder are incomplete or otherwise fail to comply with this Contract or must be modified in accordance herewith, it shall disapprove them or request such modification and shall, in its notice thereof to Developer, set forth with specificity the reasons for the failure to comply and/or the nature of the modification being requested. After correcting and/or modifying and completing the Project design documents in accordance herewith, Developer shall resubmit the Project design documents to the City within thirty (30) days after such notification from the City. The City shall, within thirty (30) days of the receipt of such revised Project design documents, give notice to Developer whether it approves or disapproves or requires further modification of the Project design documents and if it disapproves or requests further modifications, it shall set forth the specific reasons for such disapproval or requested modifications in its notice thereof to Developer. Each further revision and resubmission of any of the Project design documents by Developer, and each further review and notice of approval or disapproval or request for

modification of any of the Project design documents by the City shall be done or made pursuant to the procedures hereinabove set forth.

Section 2.8. Modifications of Design by Developer. If Developer wishes to make modifications to the design of the Project, it shall submit such proposed modifications to the City for review and approval. Any such submission shall clearly identify all changes, omissions and additions as compared to the previously approved Project design documents. If the City determines, in its reasonable judgment, that the proposed modifications are acceptable, the City shall so notify Developer, the Project design shall be deemed to incorporate the modifications that have been approved by the City and Developer shall perform its obligations under this Contract in accordance with the Project design as modified. If the City determines, in its reasonable judgment, that the proposed modifications are not acceptable, the City shall so notify Developer within thirty (30) days, specifying in reasonable detail in what respects they are not acceptable, and Developer shall either (a) withdraw the proposed modifications, in which case, construction of the Project shall proceed on the basis of the Project design previously approved by the City, or (b) revise the proposed modifications in response to the City's objections, and resubmit such modifications to the City for review and approval within thirty (30) days after such notification from the City.

Section 2.9. Construction Schedule. Subject to Permitted Delays, as hereinafter defined, the Parties desire that the Project be completed on or before the date twenty-four (24) months after commencement of construction. Developer shall commence construction of the Project on or before sixty (60) days following Closing unless Closing occurs in November or December in which case by March 1, on such schedule as is reasonably required to achieve this desired completion date. Promptly after the execution and delivery of this Contract, Developer shall commence and diligently prosecute all investigations, studies, applications, architectural

and engineering work, negotiations, letting and execution, as the case may be, of construction, demolition, and utility relocations or abandonment, contracts or commitments, necessary or appropriate for the commencement of construction in accordance with the timeline set forth herein. A construction schedule will be furnished to the City prior to completion of design. The Project shall be Completed by Developer in a good and workmanlike manner in accordance with the design approved by the City under this Contract no later than the date twenty-four (24) months after commencement of construction (date of Substantial Completion), subject to Permitted Delays. Final Completion shall occur within two (2) months following such Substantial Completion, subject to Permitted Delays. In the event a delay in construction of the Project is caused by an Unavoidable Delay or City Delay, the construction commencement deadline or the construction completion deadline shall be extended but only by the number of days of delay caused by such Unavoidable Delay or City Delay; provided, however, there shall be no extension of the applicable construction commencement deadline or the construction completion deadline unless (a) Developer provides written notice to the City within ten (10) business days after conclusion of such Unavoidable Delay or City Delay of (i) the occurrence of such Unavoidable Delay or City Delay, (ii) the total number of days of such Unavoidable Delay or City Delay, and (iii) the adjusted construction commencement deadline or construction completion deadline, and (b) the City agrees, which agreement shall not be unreasonably withheld, to the date(s) of such adjusted construction commencement deadline and the construction completion deadline in writing. Any Unavoidable Delay properly documented in accordance with the terms of this Section 2.9 shall be referred to as a "Permitted Delay."

Section 2.10. Financing Commitment; Failure to Obtain Financing. Prior to Closing, Developer shall provide a Financing Commitment to the City, in form and substance satisfactory to the City, of the Developer's financial ability to design, construct and equip the Project and

thereafter to maintain, operate and lease same in accordance with the standards set forth in this Contract. If the City is not satisfied with the Financing Commitment, the City shall provide the Developer with written notice of why the Financing Commitment is unacceptable to the City. Developer shall have secured a Financing Commitment for the funds necessary to satisfy its obligations under this Contract by no later than Closing. Failure to secure a Financing Commitment satisfactory to the City will permit the City to terminate this Contract. In the event of such termination, Developer's sole remedy shall be the return of the Deposit. Title to the Property will not be conveyed before the Developer closes on the financing for the construction of the Project and the terms and the source of the financing are acceptable to the City.

Section 2.11. Failure to Meet Development Schedule. In the event that (a) Developer fails to commence construction as specified in Section 2.9 or (b) construction ceases for ninety (90) consecutive days (other than because of Permitted Delay), except if (y) such cessation is due to the termination of the Project construction contract by the Developer or Contractor and (z) the Developer makes reasonable effort to recommence construction, then such ninety (90) day period will be extended to one hundred twenty (120) days), the City, shall be entitled, but not obligated, to terminate this Contract upon thirty (30) days prior written notice to Developer and unless Developer cures such failure or recommences construction, as the case may be, within such thirty (30) day period, this Contract shall terminate, except for the City's remedies as outlined below, .

In the event this Contract is terminated by the City pursuant to the above paragraph, City shall have the right but not the obligation to re-enter and take title to the Property, in which event Developer shall execute a deed re-conveying the Property as well as all improvements to the City, subject to any mortgage or deed of trust to which the Property is subject pursuant to the Financing Commitment (the "Mortgage"), provided Developer is paid the Reverter Payment as provided in Section 8.2. In the event that the City has the right to

terminate this Contract as provided in this Section 2.11, but does not exercise its right to terminate and the Project is Completed on a date more than twenty-six (26) months after Closing, then in such event, Developer shall pay liquidated damages for such delay for each day between the date twenty-four (24) months after the commencement of construction, and the date the Project is Completed. The amount of liquidated damages for such delay per day shall be the difference between real estate taxes that would be payable if the Project had been Completed on the date twenty-four (24) months after the commencement of construction and the actual real estate taxes that are assessed for the days between the date twenty-four (24) months after the commencement of construction and the date the Project is Completed. Developer agrees this provision is a valid and enforceable liquidated damages provision and the City's Real Estate Assessor's assessment of the amount owed shall be accepted by Developer as the proper amount. Notwithstanding anything to the contrary in this Contract, upon the Completion of the Project the right of reentry and reconveyance of title as set forth above and in Section 8.2 herein shall lapse;

Section 2.12. Risk of Loss and Insurance.

After Closing, the Developer shall bear the risk of loss on the Property and all improvements thereon, including, without limitation, the Project. Developer agrees that, in the event the Project is partially or fully damaged or destroyed prior to Completion and occupancy and subject to the Project's lender allowing the use of insurance proceeds for reconstruction, Developer shall rebuild the Project at its cost, including the costs of design, construction and equipping same in accordance with the terms set forth herein. Failure to commence reconstruction within a reasonable time or failure to complete reconstruction on a construction schedule reasonably comparable to the construction schedule applicable to the initial construction of the Project shall entitle City, at the City's option, to terminate this Contract and have the Property reconveyed to City at no cost to City.

Beginning on the Date of Closing, Developer shall, at its sole expense and cost, keep the Property and all of the improvements, including the Project, on the Property insured, on forms and in companies acceptable to City subject to the prior rights of the Project's lender, for the benefit of Developer and City, in an amount equal to not less than the full insurable value (a) against loss and damage by fire, and (b) against loss or damage from risks covered by standard form of endorsement for use in Norfolk, Virginia. In no event shall the coverage amount be less than the amount it would take to design, construct and equip the Project in the event of partial or complete destruction of the Project. Subject to the prior rights of the Project's lender, City shall be a loss payee on all such policies until the final certificate of occupancy is issued for the Project.

Prior to Closing, City shall bear the risk of loss of the Property and any existing improvements. However, any improvements thereon are to be demolished by Developer after Closing; therefore loss of all or part of improvements on the Property prior to Closing in no way requires City to rebuild the existing improvements and shall not affect Developer's obligation to close or affect the Purchase Price.

ARTICLE III

CLOSING AND PURCHASE PRICE

Section 3.1. Time and Place of Closing.

The closing ("Closing") shall take place at Office of the City Attorney, City Hall, 810 Union Street, Suite 900, Norfolk, Virginia 23510, or at any other location in Norfolk agreed to by the Parties, on a date which shall be the earlier of either (a) a date mutually satisfactory to Developer and the City, or (b) thirty (30) days after the conditions set forth in Section 3.3(g) have been satisfied but in any event no later than thirteen (13) months after the condition set

forth in Section 3.3(f) has been satisfied and in any event not later than July 15, 2017 (“Outside Closing Date”).

Section 3.2. Consideration.

In consideration for the City’s conveyance of the Property to Developer, Developer shall pay to City One Million Two Hundred Fifty Dollars (\$1,250,000.00) and Developer shall be obligated to design, construct, and equip the Project on the Property at Developer’s sole expense pursuant to the terms of this Contract.

Section 3.3. Conditions of Developer’s Obligation to Close.

The obligation of Developer to close hereunder is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided, however, that Developer at its election, evidenced by notice delivered to the City prior to or at the Closing, may waive any or all of the following conditions:

(a) All representations, warranties, acknowledgments and covenants made by the City in this Contract shall be true and correct in all material respects and shall continue to be true and correct in all material respects at the date of Closing.

(b) No laws, statutes, ordinances, governmental orders, regulations, rules or requirements shall have been enacted, adopted, issued or otherwise promulgated, and/or shall be in force, that would prevent the use and development of the Project in accordance with this Contract, the zoning, or in accordance with any related agreements to which the City is a party, or to which Developer is a party.

(c) There shall be no material adverse change to the physical or environmental condition of the Property since the date of this Contract.

(d) The City shall own good and marketable fee simple title to the Property free and clear of all liens and encumbrances except those permitted by this Contract.

(e) The portion of the Property zoned C-2 shall have been rezoned to D-2, a Downtown Development Certificate for the Project, if applicable, shall have been obtained (collectively, the “Development Approvals”), all official actions necessary to affect the Lane Closures shall have been completed, the area in which the Property is located shall be within a “Revitalization Area”, as defined by VHDA in Exhibit C, and the City Manager shall have delivered to VHDA a Revitalization Area Certification in the form of Exhibit C, if required.

(f) An allocation of federal low income tax credits from the Virginia Housing and Development Authority (“VHDA”) sufficient in an amount to make development of the Project feasible in Developer’s reasonable determination shall have been allocated to the Developer for the Project.

(g) Final site plan approval, a land disturbance permit and a building permit for the Project, and a Financing Commitment for the Project shall have been obtained by the Developer.

Section 3.4. Conditions of City’s Obligation to Close.

The obligation of the City to close hereunder is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided, however, that the City at its election, evidenced by notice delivered to Developer prior to or at the Closing, may waive any or all of the following conditions:

(a) All representations, warranties, acknowledgments and covenants made by Developer in this Contract shall be true and correct in all material respects, and shall continue to be true and correct in all material respects at the date of Closing.

(b) No laws, statutes, ordinances, governmental orders, regulations, rules or requirements shall have been enacted, adopted, issued or otherwise promulgated, and/or shall be in force, that would prevent the use and development of the Property in accordance with this

Contract, the zoning, or in accordance with any related agreements to which the City or Developer is or are a party.

(c) Developer will submit to City in accordance with City's zoning regulations two copies each of (i) the plan of development for the Project and (ii) the application of the land disturbance permit and building permit for the Project;

(d) Developer shall have obtained a Financing Commitment in accordance with Section 2.10 and shall have provided to the City appropriate evidence thereof;

(e) A certificate from the Virginia Board of Contractors or other evidence satisfactory to the City that the General Contractor selected by Developer to construct the Project is a registered contractor in good standing with the Virginia Board of Contractors;

(f) Such other documentation including plans and specifications, schematic drawings and renderings of the Project as may reasonably be requested by City to insure the orderly development of the Property in accordance with the terms of this Contract;

(g) City shall have approved the proposed budget in accordance with Section 2.9;

(h) City shall have approved the design development documents in accordance with Sections 2.4 and 2.7;

(i) City shall have received a copy of the executed construction contract; and

(j) City shall have received proof satisfactory to the City of insurance required in Section 2.12.

Section 3.5. Failure to Satisfy Conditions.

In the event that any of the conditions of a Party's obligation to close hereunder as set forth in Section 3.3 or 3.4 hereof are unsatisfied for any reason other than a Permitted Delay, that Party shall be entitled, but not obligated, upon notice delivered to the other Party to this

Contract on or prior to the Closing Date, to receive one adjournment of thirty (30) days of the Closing to enable that Party to satisfy or cause to be satisfied such conditions. If on the original or any adjourned Closing Date, any condition(s) of the obligation of a Party to close hereunder shall remain unsatisfied and has not been waived by such Party, then such Party shall have the right to terminate this Contract upon thirty (30) days written notice to the other, and unless, during such thirty (30) day notice period, either (a) the Party entitled to terminate shall waive such condition(s) as provided above and agree to proceed to Closing hereunder, or (b) the Party entitled to terminate my, by written notice to the other Party, terminate this Contract, in which event this Contract shall immediately terminate and subject to the last sentence of Section 2.3, neither Party shall have any further rights hereunder or obligations to the other of any nature hereunder or by reason hereof, except that with respect to a failure to satisfy any condition of the Closing that results from a Party's default under this Contract, the provisions of this Contract pertaining to such default, and to the Parties' respective rights, remedies and obligations in connection with such default, shall be applicable in addition to, or (in the non-defaulting Party's discretion) as an alternative to, the non-defaulting Party's aforesaid right of termination.

Section 3.6. Deliveries at Closing by City.

At the Closing, City will execute and deliver to Developer the following:

(a) A special warranty deed conveying good and marketable fee simple title to the Property free and clear of all liens and encumbrances except "Permitted Encumbrances," as defined herein, to Developer subject to the restrictive covenants described in Section 2.2; "Permitted Encumbrances" shall mean all matters of record (except liens) that have not expired by time limitations contained therein or otherwise become ineffective or that were accepted by Developer pursuant to the provisions of Section 2.1 of this Contract.

(b) A certificate to the effect that the City is not a foreign entity subject to the withholding requirements of the Foreign Investment in Real Property Tax Act;

(c) A certified copy of the ordinance adopted by the City authorizing the conveyance of the Property to Developer pursuant to the terms of this Contract;

(d) A 1099 report form pursuant to Section 6045 of the Internal Revenue Code of 1986, as amended;

(e) Form R-5E as required by the Virginia Department of Taxation to evidence that City is a Virginia resident;

(f) The Ordinance approving the Lane Closures; and

(g) Any other document or instrument required hereunder or reasonably requested by Developer or its title insurance company in order to consummate the transactions contemplated herein.

Section 3.7. Deliveries at the Closing by Developer.

At the Closing, Developer shall execute and/or deliver the following:

(a) Developer shall deliver to the City One Million Two Hundred Fifty Thousand and 00/100 Dollars (\$1,250,000.00) minus the Deposit, by wire, cashier's check or certified funds.

(b) Developer shall deliver to the City evidence reasonably satisfactory to the City that Developer has been validly formed as a limited partnership, and is qualified to do business in the Commonwealth of Virginia and City of Norfolk.

(c) Developer shall deliver to the City the written opinion of counsel of Developer, in form reasonably satisfactory to the City (assuming that all signatures are genuine, and further assuming that all documents presented to such counsel as copies conform with the originals), stating (1) that Developer is a limited partnership, duly organized and validly existing

entity under the laws of the Commonwealth of Virginia; (2) that Developer has the power to enter into the transactions contemplated by this Contract (including, without limitation, entry into this Contract); (3) that all actions by Developer required to be authorized in the transaction contemplated by this Contract have been duly authorized; (4) that this Contract and all documents required to effectuate the transactions contemplated hereby which are to be executed by Developer (including, without limitation, all agreements and instruments to be executed by Developer at the Closing) have been duly executed and delivered by Developer, and constitute binding obligations of Developer, enforceable in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganizations, moratoriums or similar laws affecting the enforcement of creditors' rights generally and by legal and equitable limitation on the enforceability of specific remedies; and

(d) Intentionally omitted.

(e) Any other document or instrument required hereunder or reasonably requested by the City in order to consummate the transactions contemplated herein, which document or instrument will be in form and substance reasonably acceptable to Developer, including, but not limited to, proof of insurance required by Section 2.12, which document or instrument will be in form and substance reasonably acceptable to City.

Section 3.8. Prorations. Proratable items relating to the Property will be prorated as of the date of Closing.

Section 3.9. Closing Costs. City is exempt from grantor's tax on the Deed. Developer will pay all other recording taxes and fees in connection with the recordation of the Deed, the cost of its title insurance commitment and policy, the cost of obtaining the survey and any subdivision plat required, and all other costs incurred in connection with its due diligence investigations of the Property. Each Party will pay its respective attorney's fees.

ARTICLE IV

ADDITIONAL COVENANTS

Section 4.1. Right of Entry. Commencing upon the date of full execution of this Contract and continuing until the earlier of the termination of this Contract or Closing, Developer and its agents, representatives and contractors will have the right to enter the Property for the purpose of surveying the Property, conducting soil tests and engineering studies and performing such other examinations as Developer deems necessary to determine the suitability of the Property for its contemplated development. Developer will keep the Property free and clear of all mechanics' liens and will indemnify, defend and hold the City harmless from and against any and all claims, liens, liabilities, damages, losses and costs (including reasonable attorneys' fees) arising from the exercise by Developer of its right of entry under this Section. This indemnity will survive Closing and any termination of this Contract. If the Closing does not occur, Developer will repair any damage to the Property caused by Developer's exercise of such right of entry.

Section 4.2. Survey. Developer shall obtain a survey of the Property. Such survey shall be certified to Developer, the City, and the title company furnishing a title commitment to the Developer.

Section 4.3. Condemnation. If before the Closing all or any portion of the Property is taken under the power of eminent domain or is transferred in lieu of such taking and such taking or transfer materially interferes with Developer's contemplated development of the Property, Developer may, at its option, (i) terminate this Contract by notice to the City within thirty (30) days after Developer is notified of such taking or transfer, in which case return of the Deposit shall be the sole and exclusive remedy or (ii) proceed to Closing.

Section 4.4. Time is of the Essence. Time is of the essence as to the performance of the terms and conditions of this Contract. To the extent any provisions of this Contract specifically state that time is of the essence, such specific provisions are not intended to mean that time is not of the essence as to the remaining provisions of this Contract.

Section 4.5. Staging Area and Construction Operations. City does not have any obligation to Developer and/or its contractor to provide a staging area or any particular construction easements for construction of the Project. Developer shall see that any pile driving and similar construction methods are not started before 9:00 a.m. and cease by 6:00 p.m. on weekdays, and are not started before 10:00 a.m. and cease before 5:00 p.m. on weekends and holidays except utility connections may be scheduled at times least disruptive to the Project and/or neighbors.

ARTICLE V

TERM

Section 5.1. Term of Contract. The term of this Contract shall commence upon the date first entered on this Contract.

ARTICLE VI

MODIFICATIONS FOR LENDER

If in connection with obtaining Financing Commitments for this Project, any lender shall request reasonable modifications of this Contract as a condition to such financing, the parties will execute a modification of this Contract, provided that such modification does not increase the financial obligations of the City, or materially and adversely affect any rights of the City created by this Contract.

ARTICLE VII

ADDITIONAL OBLIGATIONS

Section 7.1. Zoning; Design Review Exemption; Downtown Development Certificate.

If not previously initiated, promptly after execution of this Contract, City shall initiate appropriate proceedings in order to apply for rezoning of the Property from C-2 to D-2 and shall cooperate to cause such rezoning so that the same may be granted no later than March 1, 2015. Pursuant to Norfolk City Code Section 32-70(b)(6), the Project shall be exempt from design review by the City's Architectural Review Board ("ARB"). Notwithstanding this exemption, if not previously initiated, the Developer shall submit the Project to the ARB for the purpose of obtaining an opinion from the ARB which shall be advisory to the City Manager. If not previously initiated, promptly after execution of this Contract, Developer shall cause appropriate application containing the necessary information be filed for purposes of the granting of a Downtown Development Certificate, if applicable, for the Project, and City shall support Developer in such application(s) with the objective of a Downtown Development Certificate, if applicable, having been issued for the Project not later than March 1, 2015. In the event any waiver with regard to open space or otherwise is required in connection with obtaining a Downtown Development Certificate, if needed for the Project, City will cooperate with and support Developer's application therefor and cooperate and support Developer with regard to the issuance of such waiver. In the event any variance is required with respect to any signage required for the Project, City will cooperate and support Developer with regard to the issuance of any such variance. Developer acknowledges that even if a Downtown Development Certificate is needed for the Project, Developer must satisfy all other applicable laws before building permits will be issued for construction of the Project.

Section 7.2. Permits. City shall execute as owner, as may be required, all building permit applications, plans of development, utility permit applications, utility easements, and such other documents as may be reasonably required for Developer to obtain land disturbance and building permits for the Project. Developer agrees to indemnify and save City harmless from any liabilities resulting from incorrect information therein, unless such information was provided by City.

Section 7.3. Certification. Upon Final Completion of Project and the issuance of a certificate of occupancy, City will furnish Developer an appropriate instrument certifying that Developer has complied with the provisions hereof relating to the construction of the Project. If City shall, for cause, refuse or fail to provide certification, the City shall, within ten (10) days after written request by Developer, provide Developer with a written statement indicating in adequate detail how Developer has failed to complete the construction of the Project in conformity with this Contract, or is otherwise in default, and what measures or acts will be reasonably necessary in the opinion of the City, for Developer to take or perform in order to obtain certification.

Section 7.4. Street Closure. Promptly after execution of this Contract, City shall endeavor to vacate Fox Lane and to relocate Posey Lane between E. Bute Street and Wood Street as shown in Exhibit B (the "Lane Closures"), at no cost, subject to City Council's approval. The effective date of such Lane Closures shall be the date of Closing. City shall use commercially reasonable efforts to cause HRSD to abandon the sanitary sewer force main located in the former Cumberland Street right of way that crosses the Property prior to June 15, 2015.

Section 7.5. VHDA Revitalization Area Certification. If the Property is not within a redevelopment area, conservation area, or rehabilitation district established by the City or Norfolk Redevelopment and Housing Authority ("NRHA"), the City will determine whether the

area in which the Property is located meets the requirements for a “Revitalization Area” under applicable VHDA standards as set forth in Exhibit C and if the City determines that area does meet the criteria for a Revitalization Area the City will designate that area a Revitalization Area, subject to City Council action and in the event of that action the City Manager will deliver to VHDA a Revitalization Area Certification in the form attached as Exhibit C.

Section 7.6. Subdivision Plat. Prior to Closing, Developer may prepare and submit, at Developer’s expense, to the appropriate department of City for review and approval a subdivision plat subdividing the Property in order to create a parcel at the corner of E. Bute Street and Fenchurch Street for conveyance to St. John’s AME Church (the “Church”) and a parcel adjacent to the Property of the Church on the west side of the Church for conveyance to the Church. City will cooperate and support Developer in connection with the approval of such subdivision plat in order to be able to record same concurrently with Closing. In the event any variance is required by a City subdivision ordinance for such subdivision plat, City will promptly notify Developer thereof and cooperate and support Developer and obtain from the appropriate administrative official the granting of any such variance necessary for the approval of the subdivision plat so that such variance will be granted or issued no later than Closing.

Section 7.7. NRHA Project-Based Vouchers. Promptly following execution of this Contract, Developer shall file an application for not less than twelve (12) project-based vouchers to be issued by NRHA with respect to the Project and City shall support Developer in such application.

Section 7.8. Application for Tax Credits. Developer shall file an application with VHDA for an allocation of federal low income tax credits for the Project by March 1, 2015 if by that date (i) the Property is finally rezoned, (ii) the Development Approvals for the Project have been obtained or satisfied, (iii) all actions necessary to effect the closing of Fox Lane and the

relocation of Posey Lane have been completed, and (iv) the Property shall be within a "Revitalization Area" and the Revitalization Area Certification has been delivered to VHDA, if required, (collectively "Property Application Prerequisites"). If the Property Application Prerequisites have not been obtained by March 1, 2015 and, as a result, Developer elects not to file an application for tax credits by March 1, 2015, or if Developer files an application for 2015 and an allocation of low income tax credits for the Project pursuant to its application is not received, Developer shall have the right to and (unless this Contract has been terminated as provided below) shall file an application with VHDA on or before March 31, 2016 for an allocation of federal low income tax credits for 2016 for the Project. If Developer elects not to file an application for tax credits by March 1, 2015, because the Property Application Prerequisites were not obtained by that date, Developer shall notify City within thirty (30) days after March 1, 2015 whether Developer intends to file an application with VHDA for an allocation of federal low income tax credits for 2016 for the Project. If Developer gives notice that it intends to file for federal low income tax credits for 2016 for the Project then this Contract shall continue in effect in accordance with its terms. If Developer gives notice to the City that it does not intend to file an application for an allocation of federal low income tax credits for 2016 for the Project or if Developer fails to give notice within that thirty (30) day period, this Contract shall terminate on the earlier of the date of the notice that it does not intend to file an application for 2016 or the expiration of that thirty (30) day period. If Developer files an application for tax credits by March 1, 2015, and an allocation of low income tax credits for the Project is not received, Developer shall notify City within thirty (30) days after Developer is advised of the VHDA decision with regard to that application, in which notice Developer shall state whether Developer intends to file an application for an allocation of federal low income tax credits for 2016 for the Project. If Developer gives notice within that thirty (30) day period that it intends to

file for an application of federal low income tax credits for 2016, this Contract shall continue in effect in accordance with its terms. If Developer gives notice that it does not intend to file for an application for federal income tax credits for 2016, or if Developer fails to give notice within that thirty (30) day period, this Contract shall terminate on the earlier of the date of notice that Developer does not intend to pursue an application allocation of tax credits for 2016 or thirty (30) days after Developer learns that it has not received an allocation for 2015 if it gives no such notice.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.1. Default by Developer.

The occurrence of any of the following shall be an event of default by Developer under this Contract:

(a) The filing by Developer of a voluntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtors' rights;

(b) The consent by Developer to an involuntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtor's rights;

(c) The entering of an order for relief against Developer or the appointment of receiver, trustee, or custodian for all or a substantial part of the property or assets of Developer in any involuntary proceeding, and the continuation of such order, judgment or decree unstayed for any period of thirty (30) consecutive days;

(d) The failure of Developer to perform or to observe any covenant, obligation, condition or requirement of this Contract not specifically named as a default in this Section 8.1, and the continuation of such failure for thirty (30) days after written notice from City specifying the nature and extent of any such default, or, if such default cannot reasonably be

cured within such thirty (30)-day period, the failure either (i) to commence to cure such default within such thirty (30)-day period and to diligently continue to pursue such effort to cure to completion, or (ii) to cure such default within a reasonable time after the expiration of the first thirty (30)-day period, in no event to exceed ninety (90) days after the written notice of default.

Section 8.2. Remedies.

Upon the occurrence and continuance of any event of default described in Section 8.1 after written notice and expiration of any applicable cure period without cure, City may elect to terminate this Contract by giving written notice of such termination to Developer, and this Contract shall terminate as of the date specified in such notice (which date shall be on or after the date of the notice of termination). In the event that termination under this Section 8.2 occurs after Closing but before Substantial Completion of the Project, and such termination is because of a default under Section 2.11, in addition to its other remedies, City may elect to reenter and take back title to the Property in which event Developer shall re-convey such title to the City.

In the event the termination is because of a default under Section 2.11(a) or (b), the reconveyance of title of the Property and all improvements thereon to the City shall be subject to the City paying at the time of such conveyance the "Reverter Payment". The "Reverter Payment" shall be the sum of (a) One Million Two Hundred Fifty Thousand and 00/100 Dollars (\$1,250,000.00) for the Property and (b) an amount equal to ninety-five percent (95%) of the Fair Market Value, as of the date of such notice of termination, of all improvements constructed on the Property to date less the outstanding principal balance (and all accrued but unpaid interest thereon) under the Mortgage through the date of such notice of termination. For purposes of this Section, "Fair Market Value" shall mean the fair market value of the improvements constructed on the Property as of the date of such of termination as determined by mutual agreement reached within twenty (20) days of the date of notice of termination by the

City, or, in the absence of such agreement, by appraisal as follows. If the parties are unable to reach agreement on the Fair Market Value within such twenty (20) day period, then within ten (10) days thereafter Developer shall name one appraiser and the City shall name a second appraiser. The appraisers so chosen will meet within ten (10) days after the second appraiser is appointed and if, within thirty (30) days after the second appraiser is appointed, the two appraisers shall not agree upon the Fair Market Value, they shall appoint a third appraiser. In the event the two appraisers are unable to agree upon such appointment within ten (10) days after the aforesaid time, then either party may, as promptly as possible thereafter, request the American Arbitration Association to appoint a third appraiser. The decision of the appraisers so chosen shall be given within a period of thirty (30) days after the appointment of such third appraiser. The decision in which any two appraisers so appointed and acting hereunder concur shall in all cases be binding and conclusive upon the parties. Each party shall pay the fees and expenses of the original appraiser appointed by such party and the expenses of the third appraiser, if any, shall be borne equally by the parties. Any appraiser, no matter by whom designated, shall be a member in good standing, with the "MAI" designation, of the Appraisal Institute with at least ten (10) years' experience as a real estate appraiser in the Hampton Roads, Virginia area. The City's right to take back the Property is subject to the lien of any mortgage held by any lender for the financing of the Project. In addition to the remedies of termination described above, a non-defaulting Party shall have available to it all other rights and remedies provided in this Contract or at law or in equity. Remedies under this Contract shall be cumulative and not restrictive of other remedies. The prevailing Party in any action or proceeding to enforce the terms of this Contract shall be entitled to recover from the unsuccessful Party all costs and expenses, including reasonable attorney's fees incurred therein.

For the avoidance of doubt, the City's right to elect to reenter and take back title to the Property under this Section 8.2 and/or Section 2.11 after Closing is limited to the circumstances described in Section 2.11(a) or (b).

ARTICLE IX

ASSIGNMENT LIMITATIONS

Except as otherwise specifically provided herein, prior to Completion of the Project, Developer may not assign this Contract or any right, title or interest hereunder, to any entity other than an Affiliate without the City's prior written permission. Developer shall have the right to collaterally assign all or any portion of its rights in this Contract to any lender or lenders prior to the Completion of the Project or after the Project has been Completed to anyone.

An assignment shall not relieve the assigning party from its obligations under this Contract. Any purported assignment of this Contract or of any right, title or interest hereunder not complying with this Article IX shall be void and of no force or effect.

ARTICLE X

MISCELLANEOUS

Section 10.1. Low and Moderate Income Job Opportunities. Developer shall make every reasonable effort to include provisions in the construction contracts for the Project, (i) requiring the contractor to make a good faith effort to see that job opportunities at the Project are made available to low and moderate income persons; and (ii) prohibiting any contractor from discriminating on the basis of race, color, creed, national origin, age or sex. Developer will cooperate with the City in alerting the contractors to any training programs or other job opportunity sponsored by the City, and encourage participation in such programs.

Section 10.2. City's Project Representative. The City hereby appoints Peter Chapman, Deputy City Manager, or his designee as its representative for the Project who will be responsible for coordinating the City's approvals hereunder.

Section 10.3. No Broker. Developer and City each represent and warrant that no broker to whom a commission, fee or other compensation is payable is or has been involved in or brought about the transactions contemplated by this Contract. Each of said Parties shall indemnify and hold the others harmless from any and all claims, obligations, liabilities, costs or expense (including reasonable attorneys' fees) incurred as a result of any claim for brokerage commissions, fees or other compensation by any person or entity who alleges having acted or dealt with the indemnifying Party in connection with the Project or the transactions contemplated by this Contract. The Parties' obligations under this Section shall survive the Closing and any termination of this Contract. Principals of Developer are licensed real estate brokers or agents.

Section 10.4. Relationship of Parties. This Contract is not to be construed to create a partnership or joint venture between the Parties.

Section 10.5. Negotiated Document. The Parties acknowledge that the provisions and language of this Contract have been negotiated, and agree that no provision of this Contract shall be construed against any Party by reason of such Party having drafted such provision of this Contract.

Section 10.6. Governing Law. This Contract shall be governed and construed by the laws of the Commonwealth of Virginia. In the event of any action arising between the Parties with respect to the Project, venue shall be in the Circuit Court of the City of Norfolk.

Section 10.7. Successors and Assigns. The agreements, terms, covenants and conditions of this Contract shall be binding upon and inure to the benefit of the City, Developer, and except as otherwise provided herein, their respective successors and permitted assigns.

Section 10.8. Further Assurances. Each Party hereto shall do all acts and things and make, execute and deliver such written instruments as shall from time to time be reasonably required to carry out the terms and provisions of this Contract.

Section 10.9. No Amendment. Neither this Contract nor any provisions hereof may be changed, modified, amended, supplemented, altered, waived, discharged or terminated except by an instrument in writing signed by both Parties and if required by any mortgage document, with the written consent of the applicable lender.

Section 10.10. Survival of Closing. The provisions of this Contract shall survive the Closing.

Section 10.11. Effectiveness. This Contract shall not be binding or effective until executed and delivered by the Parties hereto.

Section 10.12. Waiver. The failure of any Party to insist upon strict performance of any of the terms or provisions of this Contract or to exercise any option, right or remedy contained in this Contract, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, of this Contract nor be deemed to have been made unless expressed in writing and signed by such Party.

Section 10.13. Exhibits. Each Exhibit referred to in this Contract is incorporated by reference and attached to this Contract.

Section 10.14. Consent and Approvals.

(a) All consents and approvals which may be given under this Contract shall be in writing, as a condition of their effectiveness. The granting of any consent or approval by a Party to perform any act requiring consent or approval under the terms of this Contract or the failure on the part of a Party to object to any such action taken without the required consent or

approval shall not be deemed a waiver by the Party whose consent was required or its right to require such consent or approval for any further similar act.

(b) If it is provided that a particular consent or approval is not to be unreasonably withheld, such consent or approval also shall not be unreasonably conditioned or delayed and any matter required to be done satisfactorily or to the satisfaction of a Party only be done reasonably satisfactorily or to the reasonable satisfaction of that Party.

Section 10.15. Interpretation. For the purpose of construing this Contract, unless the context indicates otherwise, words in the singular number shall be deemed to include words in the plural number and vice versa, words in one gender shall be deemed to include words in other genders, and the word "person" shall be deemed to include a corporation or partnership. Headings of articles and sections are inserted only for convenience and are not, and shall not be deemed, a limitation on the scope of the particular articles or sections to which they refer.

Section 10.16. "Including". In this Contract, whenever general words or terms are followed by the word "including" (or other forms of the word "include") and words of particular and specific meaning, the word "including without limitation," and the general words shall be construed in their widest extent, and shall not be limited to persons or things of the same general kind or class as those specifically mentioned in the words of particular and specific meaning.

Section 10.17. Notices. All notices or other communications required or desired to be given with respect to this Contract shall be in writing and shall be delivered by hand or by courier service, or sent by registered or certified mail, return receipt requested, bearing adequate postage and properly addressed as provided below. Each notice given by mail shall be deemed to be given by the sender when received or refused by the Party intended to receive such notice; each notice delivered by hand or by courier service shall be deemed to have been given and received when actually received by the Party intended to receive such notice or when such Party

refuses to accept delivery of such notice. Upon a change of address by either Party, such Party shall give written notice of such change to the other Party in accordance with the foregoing. Inability to deliver because of changed address or status of which no notice was given shall be deemed to be receipt of the notice sent, effective as of the date such notice would otherwise have been received.

To City:

City Manager
1100 City Hall
810 Union Street
Norfolk, VA 23510

With a copy to:

Director
City of Norfolk Department of Development
500 E Main St
Suite 1500
Norfolk, VA 23510

With a copy to:

City Attorney
Office of the City Attorney
810 Union Street, Suite 900
Norfolk, VA 23510

To Developer:

Miles B. Leon
S.L. Nusbaum Realty Co.
440 Monticello Avenue, Suite 1700
Norfolk, VA 23510

With a copy to:

Thomas G. Johnson, Jr.
Willcox & Savage, PC
440 Monticello Avenue, Suite 2200
Norfolk, VA 23510

Section 10.18. Entire Agreement. This Contract constitutes the entire agreement between the Parties with respect to the Project and supersedes all prior understandings and writings, and this Contract may be amended or modified only by a writing signed by City, and Developer.

Section 10.19. Counterparts. This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single document.

Section 10.20. Recordation. This Contract may be recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia.

WITNESS the following signatures:

CITY OF NORFOLK

By: _____
Name: _____
Title: _____

ATTEST:

City Clerk

APPROVED AS TO CONTENTS:

Deputy City Manager

APPROVED AS TO FORM
AND CORRECTNESS:

Assistant City Attorney

DEVELOPER

ST. PAUL'S APARTMENTS, L.P.
a Virginia limited partnership

BY: ST. PAUL'S GP, L.L.C., its general partner

By: _____
_____, Manager

By: _____
_____, Manager

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

Sworn to and subscribed before me, a Notary Public in and for the City and State
aforesaid, by _____ of the City of Norfolk, and by
_____, Clerk of the City of Norfolk, this _____ day of
_____, 2015.

Notary Public

My Commission Expires: _____

Registration No.: _____

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

Sworn to and subscribed before me, a Notary Public in and for the City and State
aforesaid, by _____, Manager of the general partner of _____,
this _____ day of _____, 2015.

Notary Public

My Commission Expires: _____

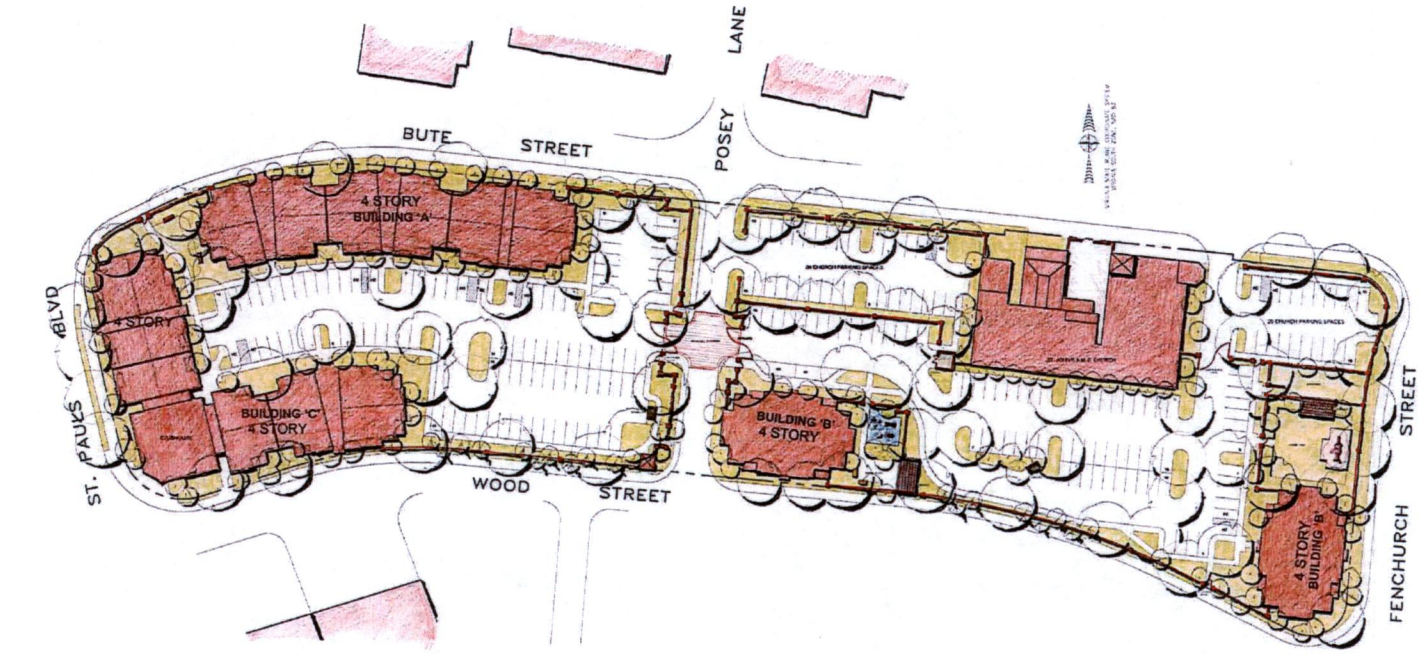
Registration No.: _____

EXHIBIT A

Property

EXHIBIT B

Project Site Plan



SITE PLAN

SISKA
AURAND
LANDSCAPE ARCHITECTS, INC.



EXHIBIT B-1

Alternate Project Site Plan If HRSD Sewer Line Not Abandoned

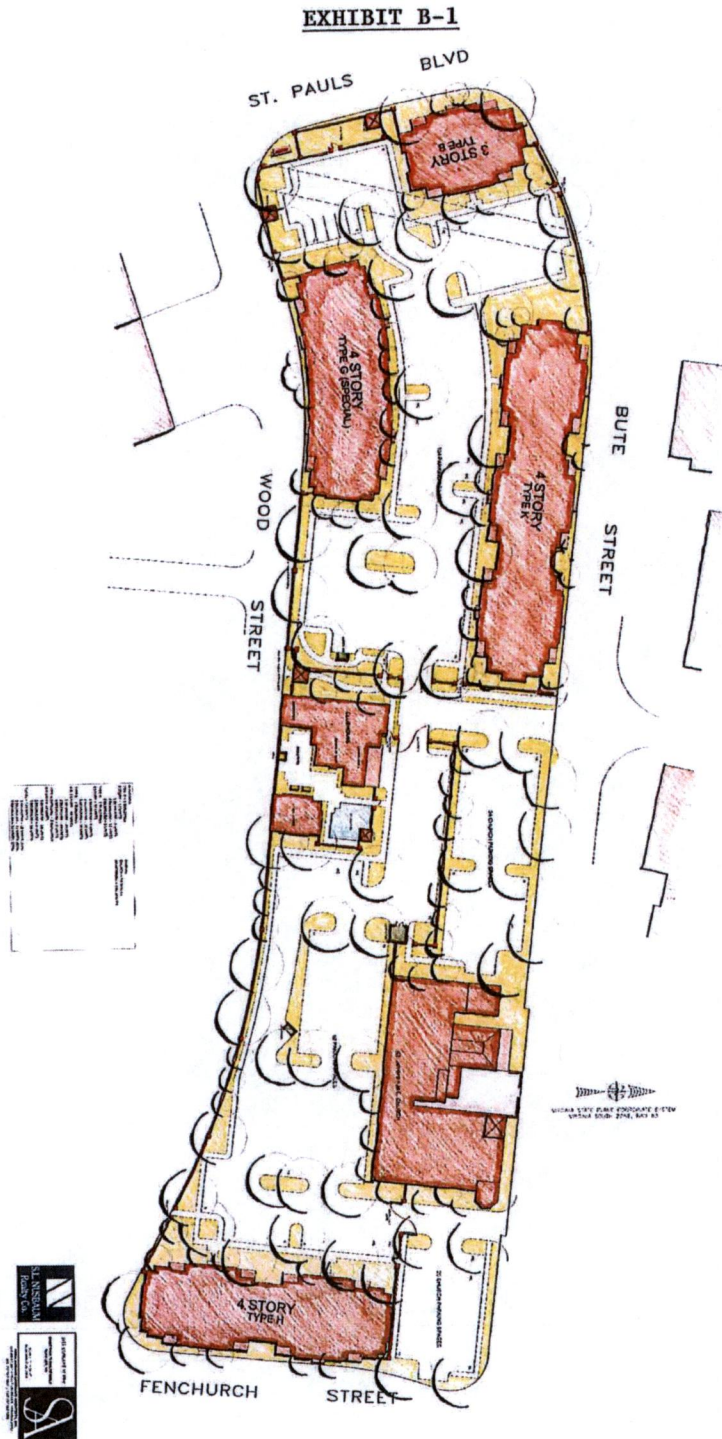


EXHIBIT C

Form of Revitalization Certification



Revitalization Area Certification

Development Name: _____
Tracking #: _____

If you have any questions, please call Jim Chandler at VHDA (804) 343-5786.

1. General Instructions

- If the Owner/Applicant completes this Certification (see instructions under 2 below), it must be included with the Reservation Application (by Application Deadline, 03/14/14). However, if the Locality CEO is required to complete this Certification (see instructions under 2 below), it must be received by VHDA no later than 4/1/14.
- Owner/Applicants are strongly encouraged to submit the Certification Letter attached (if applicable-see instructions under 2 below) to the locality CEO at least **three weeks in advance** of the 4/1/14 deadline, to ensure adequate time for review and approval by the locality.
- The Certification Letter should be on the locality's letterhead (if applicable - see instructions under 2 below).
- Any change in this Certification may result in a reduction of points under the scoring system.
- NOTE: The area within a redevelopment area, conservation area, or rehabilitation district (established by a city or county), shall be deemed a revitalization area without certification.
- NOTE: A Comprehensive Plan does not qualify as certification of a revitalization area.

2. Designation

To qualify for revitalization area points, choose one of the following:

- ☐ Evidence (submitted at Tab A of the Reservation Application) from the local housing authority or locality, that the development is located in a conservation area or redevelopment area, as defined in § 36-3 of the Code of Virginia, or rehabilitation district (as established by a city or county). Evidence must include:

- a. the type of developments that are encouraged;
- b. the potential sources of funding; and
- c. services to be offered in the area

OR

- ☐ Evidence (submitted at Tab T of the Reservation Application) that the development is subject to a plan using Hope VI funds from HUD

OR

- ☐ Locality CEO certifies that the proposed development is located in an area that meets VHDA's definition of a Revitalization Area. If this option is chosen, the Owner/Applicant must have the Locality CEO complete the letter attached.

REVITALIZATION AREA CERTIFICATION

Date

Jim Chandler
Virginia Housing Development Authority
601 South Belvidere Street
Richmond, Virginia 23220

VHDA Tracking Number: _____
Development Name: _____
Development Jurisdiction: _____
Name of Owner/Applicant: _____

Dear Mr. Chandler:

I certify that the above-referenced development is located in a Revitalization Area in my jurisdiction. A "revitalization area" is any area that is (i) either (1) blighted, deteriorated, deteriorating or, if not rehabilitated, likely to deteriorate by reason that the buildings, improvements or other facilities in such area are subject to one or more of the following conditions- dilapidation, obsolescence, overcrowding, inadequate ventilation, light or sanitation, excessive land coverage, deleterious land use, or faulty otherwise inadequate design, quality or condition, or (2) the industrial, commercial or other economic development of such area will benefit the city or county but such area lacks the housing needed to induce manufacturing, industrial, commercial, governmental, educational, entertainment, community development, healthcare or nonprofit enterprises or undertakings to locate or remain in such area; and (ii) private enterprise and investment are not reasonably expected, without assistance, to produce the construction or rehabilitation of decent, safe and sanitary housing and supporting facilities that will meet the needs of low and moderate income persons and families in such area and will induce other persons and families to live within such area and thereby create a desirable economic mix of residents in such area.

I understand that this Certification will be used by the Virginia Housing Development Authority to determine whether the development qualifies for points available under VHDA's Qualified Allocation Plan.

CEO Signature

Title